

CHAPTER 18.798

WIRELESS COMMUNICATION FACILITIES

Sections:

18.798.010	Purpose
18.798.020	Definitions
18.798.030	Exemptions
18.798.040	Uses Permitted Outright
18.798.050	Uses Subject to Site Development Review
18.798.060	Uses Permitted Subject to Conditional Use Review
18.798.070	Submission Requirements
18.798.080	Collocation Protocol
18.798.090	Abandoned Facilities

18.798.010 Purpose

- A. Purpose. The purpose of these regulations are to ensure that wireless communication facilities are regulated in a manner which 1) minimizes visual impacts; 2) promotes universal service to all customers; 3) encourages collocation of facilities to minimize the number of new facilities required; 4) ensures structural safety; 5) ensures all providers are fairly treated; and 6) protects neighborhood liveability.

18.798.020 Definitions

- A. Definitions. The following definitions apply to facilities regulated by this chapter:

1. “Antenna” means a device commonly in the form of a metal rod, wire panel or dish, for transmitting or receiving electro-magnetic radiation. An antenna is typically mounted on a supporting tower, pole, mast or building.
2. “Collocation” means the placement of two or more antenna systems or platforms by separate FCC license holders (“providers”) on a structure such as a tower, building, water tank or utility pole.
3. “FAA” means the Federal Aviation Administration.
4. “FCC” means the Federal Communications Commission.
5. “Provider” means a person or company in business of designing, installing, marketing and servicing wireless communication services including cellular telephone, personal communications services (PCS), enhanced/specialized mobile telephones and commercial paging services.
6. “Wireless communication facility” means an unmanned facility for the transmission or radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.
7. “Wireless communication facility, attached” means a wireless communication facility that is affixed to an existing structure, e.g., an existing building wall or roof, mechanical equipment, tower or pole, water tank, utility or light pole, which does not include additional wireless communication support structure.

8. “Wireless communication transmissions towers” means new structure, tower, pole or mast erected to support wireless communication antennas and connecting appurtenances. For the purposes of these regulations, such a support structure will be referred to as a “tower”. Support structure types include:
 - a. “Guyed tower” means a tower which is supported by the use of cables (guy wires) which are permanently anchored;
 - b. “Lattice tower” means a tower characterized by an open framework of lateral cross members which stabilize the tower;
 - c. “Monopole” means a single uptight pole, engineered to be self-supporting and requiring guy wires or lateral cross-supports.

18.798.030 Exemptions

A. Exemptions. The following uses and activities shall be exempt from these regulations:

1. Existing towers and antennas and any repair, reconstruction or maintenance of these facilities which do not create a significant change in visual impact;
2. Ham radio towers, citizen band transmitters and antennas;
3. Microwave dishes;
4. Antennas and equipment and other apparatus completely located within an existing structure whose purpose is to enhance or facilitate communication function of other structures on the site.

18.798.040 Uses Permitted Outright

- A. Collocation of antenna(s) on existing towers in commercial and industrial zones. Installing an antenna(s) on an existing communication tower of any height is permitted outright, so long as the additional antenna(s) are no more than 20 feet higher than the existing tower, no more than three providers are collocating on the towers, and the color of the antenna(s) blends with the existing structure or surroundings;
- B. Collocation of antenna(s) on existing non-tower structure in commercial and industrial zones. Installing an antenna(s) on an existing structure other than a tower, such as a building, water tank, sign, light fixture or utility pole, is permitted outright so long as the additional antenna(s) is no more than 20 feet higher than the existing structure, no more than three providers are collocating on the structure, and the color of the antenna(s) blends with the existing structure or surroundings;
- C. Collocation of antenna(s) on existing non-tower structures in residential zones. Installing an antenna(s) on an existing structure other than a tower, such as a building, water tank, sign, light fixture or utility pole, so long as the additional antenna(s) is no more than 10 feet higher than the existing structure, no more than three providers are collocating on the structure, and the color of the antenna(s) blends in with the existing structure and surroundings;

- D. Installation of accessory equipment shelters. Any provider who is authorized to collocate on an existing tower or non-tower structure as provided in Section 18.798.040 A-C above, shall be allowed to install any necessary accessory equipment shelters and related equipment at or near the base of the tower or structure, within the structure, so long as:
1. The accessory equipment shelter and related equipment are either located completely within the existing structure, or are located within the fenced area previously approved;
 2. The equipment shelter and related equipment shall comply with the development standards, such as setbacks, height limitations and lot coverage, of the base zone;
 3. No previously-approved landscaping shall be removed to locate the accessory equipment building and related equipment. If any such landscaping is removed, the applicant shall be required to replace it with the equivalent quantity and type of landscaping on site, in a manner to achieve the original intent, or to achieve sufficient screening of any proposed new shelter and/or equipment if the original intent would no longer be applicable. If any removed landscaping cannot be replace on site, then the applicant shall be reviewed per Section 18.798.050 below.
- E. Towers in the I-L and I-H zones. Locating a tower of any height, including antennas, other supporting equipment and accessory equipment shelters, is permitted by right in the I-L and I-H zones, providing that such a tower shall be set back from any existing off-site residence by a distance equal to the height of the tower. Any equipment shelter shall comply with the development standards of the base zone.

18.798.050 Uses Permitted Subject to Site Development Review

- A. Uses permitted. The Director shall review the uses subject to Site Development Review, as regulated by Chapter 18.360, using approval criteria contained in Section B below. The following uses are subject to approval under this section:
1. Towers in commercial zones and the I-P zone. A tower, including antennas, other support equipment and/or accessory equipment buildings, in any commercial or I-P district, provided that such a tower shall be set back from any existing off-site residence by a distance equal to the height of the tower;
 2. Public open space. A tower, including antennas, other support equipment and/or accessory equipment buildings, provided that such a tower shall be set back from any existing off-site residence by a distance equal to the height of the tower. A Type II adjustment may be obtained to reduce this setback, subject to criteria of approval contained in Section 18.370.020 C8a;
 3. Collocation in commercial and industrial zones. Collocation of an antenna(s) that extends more than 20 feet above an existing tower or non-tower structure, or when collocating more than three providers in commercial and industrial zones;
 4. Collocation in residential zones. Collocation of an antenna(s) that extends more than 10 feet above a non-tower structure or an existing tower;
 5. Accessory equipment shelter. Installation of additional accessory equipment shelters or related equipment if required existing landscaping is removed and cannot be replaced on the site to achieve the original intent, or to sufficiently screen any proposed new shelter and/or equipment if the original intent is no longer applicable;

6. Towers and antennas in public rights-of-way. Installation of any tower or antenna within any public right-of-way, provided that such tower or antenna shall be set back from any off-site residence by a distance equal to the height of the tower.
- B. Review criteria. Any use subject to Site Development Review per Section A above, shall be evaluated using the following standards:
1. Aesthetic:
 - a. New towers shall maintain a non-reflective grey finish or, if required by the FAA, be painted pursuant to the FAA's requirements;
 - b. If collocation on an existing tower is requested, the design of any antenna(s), accessory structures or equipment shall, to the extent possible, use materials, colors and textures that will match the existing tower or non-tower structure to which the equipment of the collocating provider is being attached;
 - c. If collocation on an existing non-tower structure is requested, the antenna(s) and supporting electrical and mechanical equipment shall be a neutral color that is the same as the color as the supporting structure so as to make the antenna(s) and related equipment as visually unobtrusive as possible.
 2. Setbacks:
 - a. Towers designed to collapse within themselves shall be set back in accordance with the setbacks contained in the base zone;
 - b. Towers not designed to collapse within themselves shall be set back from the property line by a distance equal to the height of the tower.
 3. Tower spacing: No new tower shall be allowed within 500 feet of an existing tower. If, having completed the collocation protocol outlined in Section 18.798.080 without success, the provider will be required to build a tower less than 500 feet from an existing tower, it will be required to obtain a Type I adjustment governed by 18.370.020 C8b;
 4. Tower height: No tower shall exceed 100 feet for a single user or 125 for multiple users;
 5. Lighting: No lighting shall be permitted on a tower except as required by the FAA;
 6. Fencing and security: For security purposes, towers and ancillary facilities shall be enclosed by a minimum six-foot fence;
 7. Landscaping and screening:
 - a. Landscaping shall be placed outside the fence and shall consist of evergreen shrubs which reach six feet in height and 95% opacity within three years of planting;
 - b. When adjacent to or within residentially-zoned property, free-standing towers and accessory equipment facilities shall be screened by the planting of a minimum of four evergreen trees at

least 15 feet in height at the time of planting. The planting of said trees shall be prescribed in number by a plan prepared by a registered arborist in locations that (1) most effectively screen the wireless facilities from residential uses and (2) promote the future survival of the trees while limiting adverse effects of the trees on abutting properties. Existing evergreen trees at least 15 feet in height may be used to meet the screening requirement of this section if the arborist demonstrates that they provide screening for abutting residential uses;

8. Noise: Noise-generating equipment shall be sound-buffered by means of baffling, barriers or other suitable means to reduce the sound level measured at the property line to 50 dBA (day)/40 dBA (night) when adjacent to a noise-sensitive land use and 75 dBA (day)/60 dBA (night) when adjacent to other uses.

- C. Other requirements. At the time a provider requests a building permit, it must demonstrate compliance to all applicable state and federal regulations, including, but not limited to, the Oregon Uniform Structural and Building Codes and FAA.

18.798.060 Uses Permitted Subject to Conditional Use Review

- A. Uses permitted. The Hearings Officer shall review the uses subject conditional use review, by means of a Type IIIA procedure, as regulated by 18.390.050 using approval criteria contained in Section B below. The following uses are subject to approval under this section:

1. Towers in residential zones. A tower, including antennas, other support equipment and/or accessory equipment buildings, in any residential zone;
2. Towers within areas with historic overlay designation. A tower, including antennas, other support equipment and/or accessory equipment buildings, in areas with historic overlay designation;
3. Towers in excess of 100 feet for a single user and 125 feet for multiple users except those located in the I-L and I-H zones, which are allowed outright per Section 18.798.040E.

- B. Review criteria. Any use subject to review per Section A above, shall be evaluated using the following standards:

1. Protection of points of visual interest:
 - a. Views from residential structures located within 250 feet of the proposed wireless communication facility to the following points of visual interest shall be protected to the greatest practical extent:
 - (1) Mountains;
 - (2) Significant public open spaces;
 - (3) Historic structures.
 - b. The following standards, and only the following standards, shall be used to protect the above identified points of visual interest to the greatest practical extent if views from a residential structure located within 250 feet from a proposed wireless communication facility to a point of visual interest specifically identified above is significantly affected:

- (1) Investigate other locations within the same lot where such visual impacts can be minimized overall;
 - (2) Investigate alternative tower designs that can be used to minimize the interruption of views from the residence to the point of visual interest;
 - (3) Minimize visual impacts to the point of visual interest referred to above, by demonstrating that collocation or the use of other structures within the applicant's service area is not feasible at this time;
 - (4) Minimize visual impacts by varying the setbacks or landscaping standards that would otherwise be applicable, so long as the overall impact of the proposed development is as good or better than that which would otherwise be required without said variations.
2. Color. Towers shall have a non-reflective surface and a neutral color that is the same or similar color as the supporting structure to make the antennas and related equipment as visually unobtrusive as possible, or, if required by the FAA, be painted pursuant to the FAA's requirements;
3. Setbacks: Towers shall be set back from the property line by a distance equal to the height of the tower. A Type II adjustment may be obtained to reduce this setback, subject to criteria of approval contained in Section 18.370.020 C8a;
4. Tower spacing: No new tower in a residential zone shall be allowed within 2,000 feet of an existing tower. No new tower in non-residential zones shall be allowed within 500 feet of an existing tower. If, having completed the collocation protocol outlined in Section 18.798.080 without success, the provider will be required to build a tower less than the distances specified above, it will be required to obtain a Type I adjustment governed by 18.370.020 C8b;
5. Lighting: No lighting shall be permitted on a tower except as required by the FAA;
6. Fencing and security: For security purposes, towers and ancillary facilities shall be enclosed by a six-foot fence;
7. Landscaping and screening.
 - a. Landscaping shall be placed outside the fence and shall consist of evergreen shrubs which reach six-feet in height and 95% opacity within three years of planting.
 - b. When adjacent to or within residentially-zoned property, free-standing towers and accessory equipment facilities shall be screened by the planting of a minimum of four evergreen trees at least 15 feet in height at the time of planting. The planting of said trees shall be prescribed in number by a plan prepared by a registered arborist in locations that (1) most effectively screen the wireless facilities from residential uses and (2) promote the future survival of the trees while limiting adverse effects of the trees on abutting properties. Existing evergreen trees at least 15 feet in height may be used to meet the screening requirement of this section if the arborist demonstrates that they provide screening for abutting residential uses.
8. Noise: Noise-generating equipment shall be sound-buffered by means of baffling, barriers or other suitable means to reduce the sound level measured at the property line to 50 dBA (day)/40 dBA

(night) when adjacent to a noise-sensitive land use and 75 dBA (day)/60 dBA (night) when adjacent to other uses.

- C. Other requirements. At the time a provider requests a building permit, it must demonstrate compliance to all applicable state and federal regulations, including, but not limited to, the Oregon Uniform Structural and Building Codes and FAA.

18.798.070 Submission Requirements

- A. Submission requirements. All applications for Site Development Review or Conditional Use, shall be made on forms provided by the Director. The Director shall provide the applicant with detailed information about specific submission requirements.

18.798.080 Collocation Protocol

- A. Purpose. The purpose of this requirement is to create a process that will allow providers to equitable share publicly-available, non-proprietary information among themselves, with interested persons and agencies, and with the City, at the time the provider schedules a pre-application conference with the approval authority. This collocation protocol is designed to increase the likelihood that all reasonable opportunities for collocation have been investigated and the appropriate information has been shared among providers.

The City recognizes that collocation is preferable, where technologically feasible and visually desirable, as a matter of public policy, but that collocation of antennas by providers is not always feasible for technical or business reasons. However, if all licensed providers are made aware of any pending tower or antenna permit requests, such disclosure will allow providers to have the maximum amount of time to consider possible collocation opportunities, and will also assure the City that all reasonable accommodations for collocation have been investigated. The code creates strong incentives for collocation because proposals for collocation qualify for a less rigorous approval process.

- B. Applicability. Requirements for the collocation protocol apply only to new towers subject to Site Development Review or Conditional Use.
- C. Pre-application requirement. A pre-application conference is required for all proposed free-standing towers except those in the I-L and I-H zones, which are permitted outright.
- D. Collocation request letter requirement. At the time a pre-application conference is scheduled, the applicant shall demonstrate that the following notice was mailed to all other wireless communication providers licensed to provide service within the City's boundaries:

"Pursuant to the requirements of 18.798.080, [name of wireless provider] is hereby providing you with notice of our intent to meet with representatives of the City of Tigard in a pre-application conference to discuss the location a new free-standing wireless communication facility that would be located at [location]. In general, we plan to construct a [type of tower] of [number] feet in height for the purpose of providing [cellular, PCS] service.

Please inform us whether your company Has any existing or pending wireless facilities located within [distance] of the proposed facility, that may be available for possible collocation opportunities. Please provide us with this information within 10 business days after the date of this letter. Your cooperation is appreciated.

Sincerely [Name of pre-application applicant].”

- E. Applicant’s obligation to analyze feasibility of collocation. If a response to a collocation request letter is received by an applicant indicating an opportunity for collocation on an existing tower of another provider, the applicant shall make a good faith effort to analyze the feasibility of collocation. This analysis shall be submitted with an application for a freestanding tower. A good faith effort to investigate the feasibility of collocation on an existing facility shall be deemed to have occurred if the applicant submits all of the following information:
1. A statement from a qualified engineer indicating whether the necessary service can or cannot be provided by collocation at the potential collocation site;
 2. Evidence that lessor of the potential collocation site either agrees or disagrees to collocation on his/her property;
 3. Evidence that adequate site area exists or does not exist at the potential collocation site to accommodate ancillary equipment for the second provider and still meet all of the development standards required in the base zone;
 4. Evidence that adequate access does or does not exist at the possible collocation site.
- F. Result of collocation feasibility analysis. If the applicant has provided information addressing each of the criteria in D above, the collocation protocol shall be deemed complete. The applicant’s tower shall then be permitted subject to the applicable standards and restrictions contained in this chapter.

18.798.090 Abandoned Facilities

- A. Abandonment defined. A wireless communication facility which has been discontinued for a period of six consecutive months or longer is hereby declared abandoned.
- B. Removal of abandoned facilities. Abandoned facilities as defined in Section A above shall be removed by the property owner within 90 days from date of abandonment. Failure to remove an abandoned facility is declared a public nuisance and is subject to penalties per Chapter 7.40 of the Municipal Code.
- C. Extension. Upon written application, prior to the expiration of the six-month period, the Director shall, in writing, grant a six-month extension for reuse of the facility. Additional extensions beyond the first six-month extension may be granted by the Director subject to any conditions required to bring the project or facility into compliance with current regulation(s) and make it compatible with surrounding development.■